

basis.”⁶

3. On March 25, 2010, NextG filed an Uncontested Motion to Withdraw Complaint Without Prejudice.⁷ In the Motion to Withdraw, NextG states that, while it “does not necessarily concede that the ICC’s comments directly resolve the question of whether the ICC has adequately certified that it regulates the rates, terms, and conditions of conduit access for telecommunications providers,” NextG no longer requests access to RCN’s conduit at issue because the dispute is “currently moot.”⁸ NextG asserts that “[n]o party will be prejudiced by withdrawal of NextG’s Complaint without prejudice at this time.”⁹ The Motion to Withdraw further represents that “[c]ounsel for RCN has informed counsel for NextG that RCN will not oppose NextG’s withdrawal of its Complaint without prejudice as moot.”¹⁰ Based on the foregoing facts, we are satisfied that the parties have shown good cause for granting the request to dismiss the complaint.

4. Accordingly, IT IS ORDERED, pursuant to sections 4(i), 4(j), and 224 of the Act, as amended, 47 U.S.C. §§ 154(i), 154(j), 224, and sections 1.1401-1.1418 of the Commission’s rules, 47 C.F.R. §§ 1.1401-1.1418, and the authority delegated in sections 0.111 and 0.311 of the Commission’s rules, 47 C.F.R. §§ 0.111, 0.311, that the Motion to Withdraw IS GRANTED.

5. IT IS FURTHER ORDERED, pursuant to sections 4(i), 4(j), and 224 of the Act, as amended, 47 U.S.C. §§ 154(i), 154(j), 224, and sections 1.1401-1.1418 of the Commission’s rules, 47 C.F.R. §§ 1.1401-1.1418, and the authority delegated in sections 0.111 and 0.311 of the Commission’s rules, 47 C.F.R. §§ 0.111, 0.311, that NextG’s Complaint against RCN IS DISMISSED WITHOUT PREJUDICE.

FEDERAL COMMUNICATIONS COMMISSION

Lisa B. Griffin
Deputy Chief, Market Disputes Resolution Division
Enforcement Bureau

⁶ Comments of the Illinois Commerce Commission, File No. EB-09-MD-009 (filed Feb. 10, 2010) (“ICC Comments”) at 11, 13.

⁷ Uncontested Motion to Withdraw Complaint Without Prejudice, File No. EB-09-MD-009 (filed Mar. 25, 2010) (“Motion to Withdraw”).

⁸ Motion to Withdraw at 2, ¶ 4.

⁹ Motion to Withdraw at 2, ¶ 7.

¹⁰ Motion to Withdraw at 2, ¶ 6.